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FILED

JUN 05 2008

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY *WLP* DEPUTY

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Attorneys for Plaintiff,
United States Golf Association, Inc.

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

**UNITED STATES GOLF ASSOCIATION,
INC.**

Plaintiff,

v.

**VARIOUS JOHN and JANE DOES
Individuals,**

and

VARIOUS XYZ ENTITIES,

Defendants.

'08 CV 0981 JM JMA
CASE NO. 08-_____

**AFFIDAVIT OF BARRY L.
COHEN, ESQ.**

I, Barry L. Cohen, Esq., being duly sworn, hereby depose and say:

ORIGINAL

1 1. I am over eighteen (18) years of age and fully competent to make the
2 statements herein.

3 2. I am an attorney licensed to practice law in the Commonwealth of
4 Pennsylvania and the State of New Jersey, concurrent with this filing have submitted an
5 application to be admitted *pro hac vice* regarding the above-captioned matter, and am a
6 partner with the law firm of Thorp, Reed & Armstrong, LLP, counsel of record for
7 Plaintiff United States Golf Association, Inc. ("USGA" or "Plaintiff"). A substantial
8 portion of my practice centers on law of intellectual property rights.
9

10 3. I submit this declaration pursuant to Fed. R. Civ. P. 65(b)(1)(B) in
11 support of the USGA's Plaintiff's *Ex Parte* Motion For Temporary Restraining Order,
12 Order for Seizure of Infringing Goods and for Preliminary Injunction. I have personal
13 knowledge of the facts stated herein and could and would testify competently thereto if
14 called upon to do.

15 4. Pursuant to Rule 65(b) of the Federal Rules of Civil Procedure and the
16 Federal Trademark Act, 15 U.S.C. §§1114, 1116(d), 1125, Plaintiff USGA is applying to
17 this Court for a temporary restraining order to enjoin Defendants' unauthorized production,
18 distribution, and sale of merchandise and memorabilia bearing or referring to marks
19 identical or confusingly similar to the USGA's marks ("Unauthorized Merchandise"), and
20 an order directing the United States Marshal, his deputies, or a federal, state, or local law
21 enforcement agency or any person empowered by this Court to seize Unauthorized
22 Merchandise wherever it may be found within San Diego County, California, and/or within
23 25 miles of Torrey Pines Golf Course or at other locations within the City of San Diego
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1 identified by Plaintiff's counsel, Thorp Reed & Armstrong, LLP and Butz, Dunn &
 2 DeSantis, P.C.


3 5. Notice of this Application has not been, and should not be provided to
 4 Defendants because such notice would likely cause Defendants to destroy, move or hide
 5 their Unauthorized Merchandise or otherwise make it inaccessible to this Court.
 6

7 6. Further, based on my prior experience in such cases, if given notice of
 8 this Application, Defendants would not appear at the hearing of the Application.

9 7. In the past, I have represented numerous trademark holders in cases
 10 similar to the instant matter in which the substantially same relief was sought. Examples of
 11 these include work for The National Football League, University of Pennsylvania, Rolex,
 12 Coach, Louis Vuitton and several musical artist, such as Tom Petty, Bruce Springsteen,
 13 Alanis Morissette, Backstreet Boys, and Eric Clapton.

14 8. In my experience, the only effective enforcement and prevention
 15 mechanism that exists to deter and prevent such unauthorized activity at such events, such
 16 as the 2008 U.S. Open, is a Temporary Restraining Order and an Order of Seizure, without
 17 providing advanced notice to the persons selling the counterfeit merchandise.

18 I verify under penalty of perjury that the foregoing statements are true and correct
 19 and signed as of the date reflected below in Philadelphia, County of Philadelphia,
 20 Pennsylvania.

21 
 22 Barry L. Cohen, Esq.

23 Sworn to and subscribed before

24 me this 30th day of May, 2008.

